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Letter dated 22 May 2003 from the Chairperson of the fifty-ninth session of the Commission on Human Rights to the President of the Economic and Social Council

With reference to Economic and Social Council decision 1999/256 of 27 July 1999, in particular its paragraph (b) (i) approving the recommendation of the Commission on Human Rights that the Council include in its resumed organizational session consideration of any new proposal regarding special procedures or mandates adopted at the annual session of the Commission, I have the pleasure to inform you about two new relevant proposals adopted by the Commission this year:

(a) Resolution 2003/77, entitled "Situation of human rights in Afghanistan", in which the Commission requests the Secretary-General to appoint an independent expert for a period of one year (paragraph 15 (b));

(b) Resolution 2003/82, entitled "Technical cooperation and advisory services in Liberia", in which the Commission decides to appoint an independent expert for an initial period of three years (paragraph 1).

Advance copies of resolutions 2003/77 and 2003/82 are attached for your reference (see annexes I and II).

Keeping in mind the fact that there is no scheduled meeting of the Council before its substantive session, it would be my intention not to request a resumption of the Council in order to take early action on the proposals. The proposals will be included in the report of the Commission on Human Rights on its fifty-ninth session and presented to the substantive session of the Council in July 2003 for consideration and approval. This would however not constitute a precedent to actions that might be required according to future session of the Commission.

You may wish to consider circulating the present letter and its annexes as an official document of the Council.

(*Signed*) Najat **Al-Hajjaji**
Chairperson of the fifty-ninth session
of the Commission on Human Rights

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Annex I

Advance copy of Commission on Human Rights resolution 2003/77

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and accepted humanitarian rules, as set forth in the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have freely undertaken under the various international instruments,

Recalling that Afghanistan is a party to several international human rights instruments and has obligations to report on their implementation,

Recalling also the relevant resolutions and decisions of the Commission on Human Rights, the relevant resolutions and presidential statements of the Security Council, the reports of the Secretary-General on children and armed conflict (S/2002/1299) and on women, peace and security (S/2002/1154) and the most recent resolution adopted by the Commission on the Status of Women,

Recalling further the Agreement on Provisional Arrangements in Afghanistan pending the Re-establishment of Permanent Government Institutions, signed in Bonn on 5 December 2001 (the Bonn Agreement),

Welcoming the presidential decree providing for the establishment of the new Afghan National Army as a sign of the Transitional Authority's commitment to an ethnically balanced army, under civilian control, and stressing the importance of increased support for its early establishment and the ongoing demobilization programme, as well as the establishment of an effective police force,

Welcoming the efforts of the Transitional Authority to re-establish the rule of law throughout Afghanistan as well as the full protection of human rights and fundamental freedoms, and emphasizing that a safe environment, free from violence, discrimination and abuse, is essential for a viable and sustainable recovery and reconstruction process,

Reiterating the need for safety, security and free movement of all United Nations and associated personnel, as well as of all foreign and local personnel of humanitarian organizations,

Recognizing the fundamental role of an independent judiciary in ensuring the protection of human rights and fundamental freedoms, with a view to combating impunity,

1. *Welcomes* the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan (E/CN.4/2003/39) as well as the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on her visit to Afghanistan (E/CN.4/2003/3/Add.4) and takes note of the recommendations contained therein;

2. *Also welcomes* the ratification by Afghanistan of the Convention on the Elimination of All Forms of Discrimination against Women and acknowledges its

accession to the Rome Statute of the International Criminal Court and urges the Transitional Authority to consider as a matter of priority acceding to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and ratifying Conventions No. 100 on the equal remuneration of men and women and No. 182 on the elimination of the worst forms of child labour of the International Labour Organization;

3. *Further welcomes* the establishment of the Independent Human Rights Commission and of the Judicial Commission, both of which will play a vital role in the promotion and protection of human rights and fundamental freedoms in Afghanistan;

4. *Encourages* the Transitional Authority and the international community to provide appropriate assistance to these Commissions so they may fulfil their mandates promptly, effectively, and in a manner consistent with Afghanistan's international human rights obligations;

5. *Welcomes* the establishment of the Constitutional Drafting Committee and the ongoing process to develop a new constitution, and stresses the importance of incorporating Afghanistan's international obligations in the new constitution, as well as the need to ensure the full participation of women in all processes leading up to the convening of the Constitutional Loya Jirga and in the Constitutional Loya Jirga itself;

6. *Recognizes* the steps already taken by the Transitional Authority to promote and protect human rights and fundamental freedoms;

7. *Recognizes* that exposing violations of human rights, holding the perpetrators, including their accomplices, accountable, obtaining justice for their victims, as well as preserving historical records of such violations and restoring the dignity of victims through the acknowledgement and commemoration of their suffering, will guide future societies and are integral to the promotion and implementation of all human rights and fundamental freedoms and to the prevention of future violations;

8. *Notes with concern* reports of violence perpetrated by Afghan elements against certain ethnic groups, internally displaced persons and refugees who have returned, as well as cases of arbitrary arrest and detention and attacks against women and girls;

9. *Affirms* the primary responsibility of the Transitional Authority, supported by the United Nations, to establish an environment of good governance, democracy and the rule of law as well as a Government that is broad-based, gender sensitive, multi-ethnic and fully representative of the Afghan people;

10. *Calls upon* the Transitional Authority, in application of the Bonn Agreement:

(*a*) To continue cooperating fully with all special rapporteurs and human rights mechanisms of the United Nations and to consider extending a standing invitation to them to visit the country;

(*b*) To respect fully Afghanistan's international human rights obligations without distinction of any kind, such as race, colour, sex, language, religion,

political or other opinion, national, ethnic or social origin, property, birth, descent or other status;

(*c*) To continue efforts to re-establish the rule of law, including by working with international donors to train law enforcement agencies to protect and uphold human rights and fundamental freedoms, and to take steps to provide greater access to justice, and to implement measures to reform the penitentiary system in conformity with international standards;

(*d*) To declare a moratorium on the death penalty in the light of procedural and substantive flaws in the Afghan judicial system, bearing in mind the United Nations Safeguards, guaranteeing protection of the rights of those facing the death penalty;

(*e*) To investigate allegations of human rights violations, in particular against ethnic minorities, as well as against women and girls;

(*f*) To facilitate the voluntary and orderly return and reintegration, in safety and dignity, of Afghan refugees and internally displaced persons;

(*g*) To respect and protect the human rights of Afghan women and girls, including by providing adequate support to the Women's Ministry, protecting women from all forms of violence, ensuring equal access to education and health care, addressing the problem of their extra-legal detention and ensuring their full participation in all spheres of Afghan life;

(*h*) To cooperate effectively with the international community in the fight against drug trafficking;

11. *Recognizes* the huge burden shouldered by neighbouring countries, especially the Islamic Republic of Iran and Pakistan, appreciates the efforts undertaken in these host countries to ease the plight of Afghan refugees and encourages them to continue cooperating with the Office of the United Nations High Commissioner for Refugees towards this end;

12. *Welcomes* the contributions of donors, urges them to fulfil promptly the funding commitments made at the International Conference on Reconstruction Assistance to Afghanistan, held in Tokyo on 21 and 22 January 2002, and invites them to provide additional resources beyond those pledged in Tokyo, and urges the international community to cooperate with the Afghan Independent Human Rights Commission and the Advisory Group on Human Rights with a view to integrating human rights, including children's rights, and gender issues in donor-assisted programmes;

13. *Commends* the activities of the United Nations Assistance Mission in Afghanistan, the Office of the United Nations High Commissioner for Human Rights and other United Nations agencies in assisting Afghanistan with the implementation of the human rights provisions of the Bonn Agreement, in particular by supporting the Afghan Independent Human Rights Commission;

14. *Urges* the United Nations to provide assistance to the Transitional Authority in the organization and carrying out of a credible, free and fair electoral process in a secure environment for the elections due to take place by June 2004, and calls upon Member States to provide financial and technical support, including observers, for the purpose;

15. *Requests* the Secretary-General:

(*a*) To ensure that the post of Senior Gender Adviser in the United Nations Assistance Mission in Afghanistan is filled immediately and on a permanent basis, in order to mainstream a gender perspective in its activities;

(*b*) To appoint an independent expert for a period of one year to develop, in strict collaboration with the Transitional Authority, including the Afghan Independent Human Rights Commission, as well as with the Office of the High Commissioner for Human Rights and the United Nations Assistance Mission in Afghanistan, a programme of advisory services to ensure the full respect and protection of human rights and the promotion of the rule of law and to seek and receive information about and report on the human rights situation in Afghanistan in an effort to prevent human rights violations;

16. *Invites* the relevant bodies of the United Nations, in particular the Office of the High Commissioner for Human Rights, within the framework of the United Nations Assistance Mission in Afghanistan:

(*a*) To support the full implementation of the human rights provisions of the Bonn Agreement and the National Human Rights Programme for Afghanistan, including by ensuring that the promotion and protection of human rights are central to the purposes and functions of the mission;

(*b*) To continue to support the work of the Independent Human Rights Commission;

17. *Invites* the independent expert to be appointed by the Secretary-General to provide a report on the situation of human rights in Afghanistan and on the achievements of the technical assistance in the field of human rights to the General Assembly and the Commission on Human Rights;

18. *Invites* the Special Rapporteur on violence against women to continue to review the situation of women and girls in Afghanistan and to submit a report to the General Assembly and the Commission on Human Rights.